

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building

Room 210

9:00 a.m.

September 20, 2017

TELEPHONE MEETING

MINUTES

DIVISION STAFF PRESENT:

Jonathan Stewart, Division Director
Mark Fagergren, Education and Licensing Director
Kadee Wright, Chief Investigator
Justin Barney, Hearing Officer
Allen McNeil, Real Estate Analyst
Judith Jensen, Assistant Attorney General
Elizabeth Harris, Assistant Attorney General
Amber Nielsen, Board Secretary
Jennica Gruver, Real Estate Education Coordinator
Van Kagie, Investigator
Kurtis Hughes, Investigator
Mark Schaerrer, Investigator
Sarah Nicholson, Investigator
Chris Martindale, Investigator
Teresa Larsen, Investigator
Faruk Halilovic, Division Staff

COMMISSION MEMBERS PRESENT:

Lori Chapman, Chair
Cal Musselman, Vice Chair
Lerron Little, Commissioner
Russell K. Booth, Commissioner

GUESTS:

Dan Naylor	Kreg Wagner
Shane Norris	Heather Swanger
Cheryl Ray	Lindsay Cleverly
Kent England	Kelly Kennedy
Kevin Swenson	

The September 20, 2017 meeting of the Utah Real Estate Commission began at 9:00 a.m. with Chair Little conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes – A motion was made and seconded to approve the minutes with a correction of grammar from the August 16, 2017 meeting of the Commission. Vote: Chair Chapman, yes; Vice Chair Musselman, yes; Commissioner Little, yes; Commissioner Booth, yes. The motion was approved.

Mr. Fagergren introduced Kent England to present of the topic of Commercial Core Topic Courses. Mr. England discussed his history with the Commercial Education. He stated with NAIOP, they have come up with several topics, which they have presented to the Commission for consideration for approval as core topics. Mr. Booth feels this is a great suggestion and feels there is a need for these changes. He feels there should be a committee formed to consider these proposals. Mr. Fagergren stated that he agrees with the intentions of this proposal. However, he stated there were some misconceptions. He stated the number of courses, which are approved and deal with commercial courses. He stated the core topics do not necessarily state they are residential or commercial. He stated the commercial could have state-approved forms to be presented and approved by the Commission. Mr. Fagergren went through a few core topics which are currently approved and how the commercial courses could be taught on those topics. Chair Chapman asked if there are currently any core commercial courses. Mr. Fagergren stated he didn't have that information at hand. Mr. Booth stated there is a lack of awareness of what courses could be offered as core. He suggests some information be presented and perhaps a committee or something of that nature be made to get that information out there. Commissioner Little stated he doesn't feel like a problem as far as the rules goes; he stated the problem may simply reside with a lack of courses being offered by educators. Mr. England stated Commissioner Little is correct and that there aren't enough commercial courses being offered. There was a discussion on getting the commercial offices involved and work together to communicate what the options are and to offer the courses that licensees will want. Mr. Fagergren proposed that NAIOP and CCIM meet with Mr. Fagergren to discuss the courses and options. The Commission agrees with that action. Commissioner Booth would like to have the addition of more core topics considered.

DIVISION REPORTS

DIRECTOR'S REPORT – Jonathan Stewart

Director Stewart reported last month an offer was extended to Allen McNeil to work as the Real Estate Analyst. He has since started with the Division. He is here and the Division looks forward to working with him.

Director Stewart reported the ARELLO Newsletter came out and he briefly went through some points of interest. He reported the FTC's requested public comments in connection with a license portability roundtable. They were looking at ways to streamline the licensing process between states. ARELLO responded that they believe that the regulation of real estate licensees properly exists at the State level. They encourage cooperation and license recognition in licensing between

jurisdictions when it is mutually advantageous. They continued most jurisdictions recognize the education and the national examinations approved in other states, requiring that applicants licensed in another jurisdiction only pass the State portion of the examination. They continued saying some of these jurisdictions have reciprocal licensing compacts with other States. Director Stewart stated the Division is in favor of reciprocal licensing. Other states the Division has had agreements with in the past have backed out. The Division does recognize education and examinations which were taken in other States. He stated the Division is very open to receiving licensees from other states. Commissioner Booth stated he is in favor of the way the Division has been handling things.

Director Stewart noted that the New Mexico Real Estate Commission has proposed rules that would complement a recent statutory change in the state's licensing requirements by adopting a new experience point system for associate brokers seeking to become qualifying brokers. New Mexico is a "single licensing" jurisdiction in which real estate licenses are issued to associate brokers and qualifying brokers. A salesperson's license classification does not exist. New rules promulgated by the Commission complement the legislation by adopting a 100-point transactional experience requirement that all qualifying broker candidates must meet, with at least one transaction accomplished during each of the four years prior to filing of the application. Director Stewart stated he didn't know if New Mexico considered Utah's requirements when making these changes. Mr. Fagergren stated that after the meeting last month he spoke with the Education and Licensing Director from Colorado. He stated the Colorado Legislature had enacted a bill and he was very complimentary about the Utah process and wanted to get more information.

Director Stewart reported there are new scams emerging. *The NAR Daily Real Estate News* recently reported that at least one broker has received a text message purported to have been issued by NAR that accuses the broker of sending racist texts and emails. The phony text says the NAR is "appalled" by and "will confront" such behavior, and "will not compromise our principles by letting divisive and hateful language go unchecked." Of course, the text invites the broker to pay a fine, in this case \$1345.00, through a purported link to the online Square Cash payment service. NAR reported the scam to the Federal Bureau of Investigation; which recommends that anyone receiving such a text should take a screen shot of it, delete it, and then report it to the FBI's online Internet Crime Compliant Center Website. the Minnesota Commerce Department is warning real estate licensees of a similar scam involving phony text messages claiming to be from the Department and demanding payment for a civil penalty via PayPal. The examples displayed. by the Department's press release contain little text other than the demand for payment and a PayPal link. The Department says that it does not communicate with its licensees via text messages, never asks for payment of a civil penalty via a text, and does not use PayPal. Director Stewart mentioned that the Division also does not send out text messages asking people to pay fines. It is always done through a citation, a stipulation, or a signed order from the Commission.

Director Stewart reported the Escrow/Closing Fund Wire Fraud Scam Continues. Despite numerous warnings issued over the last several years by real estate industry and consumer groups, state and federal law enforcement and regulatory

agencies, and the news media, the ubiquitous real estate wire- fraud scam continues to find victims. The most recent reports include Washington, D.C. residential property buyers who in August lost \$1.5 million to the scheme, a Colorado couple who reportedly lost \$270,000, and a July press release from North Carolina Attorney General indicating that consumers in the state are currently being targeted and have lost tens of thousands of dollars. Director Stewart mentioned the Division has sent out numerous press releases, notices, and articles in the newsletter warning of this scam. He reiterated the importance of being available by phone when wiring instructions change.

ENFORCEMENT REPORT – Kadee Wright

Ms. Wright reported in the month of August the Division received 26 complaints; opened 43 cases; closed 10 cases; leaving 404 open cases. There are 40 cases assigned to the AG's office.

Stipulations for Review

Jeremiah A Nash
Nicholas Golden
Paul Robbins Henderson
Stephen Adam Koch
West D Haradin
Derek Klopfer
Cory E Martin

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren presented some situations which are being seen by the licensing staff. He is ultimately hoping for the formation of a committee to review the rules to reflect the reality of the industry. The first situation is a broker who wants to start a company but does not want to have a physical location; the rules currently require an address to a physical location. This broker wants a branch of this company to have a physical location. The branch location address would be hundreds of miles from where the branch identifier would indicate where the branch is located. Mr. Fagergren went into more detail about what is being seen in the industry. Mr. Fagergren asked if the public is being protected if there is not a physical location where the public can go to speak with their Broker. There is also an issue where a company wants to have a branch location at the same address of the main company location. Regardless of whether the Commission feels these scenarios should be allowed or not, Mr. Fagergren feels the rules need some clarification. The Commission discussed the issue at length. The Commission agreed that a committee be formed to discuss the rules. Commissioner Little and Chair Chapman both volunteered to be on that committee. Teresa Larsen and Mr. Fagergren from the Division have volunteered to also be on that committee. The Commission recommended that a representative on the UAR also be on that committee along with industry professionals. Chair Chapman asked that the Division get the

information as to the reasoning as to why the brokers are requesting these changes or to include them on the committee. Commissioner Booth recommended reaching out to other industry groups to see if they have input. Mr. Barney mentioned that another rules committee meets over teleconference which would ease some burden.

Mr. Fagergren is happy and pleased to announce the Instructor Development Workshop on Wednesday and Thursday, October 11th and 12th at the Park City Marriott. Mr. Fagergren asked Commissioners to attend and participate in the panel.

Mr. Fagergren presented the application of Morris Kunz to Commission for equivalent experience due to a lack of a high school diploma or GED.

COMMISSION AND INDUSTRY ISSUES

Mr. Barney reported the rule amendment which was voted on by the Commission previously has been prepared but has not yet been filed. There was a backlog at the Department level. It is currently with the Executive Director and we are awaiting her comments. He stated it should be filed before the next meeting.

Mr. Barney reported there were some other amendments which were proposed last month which will move forward as well.

A motion was made to close the meeting for the sole purpose of discussing the character, professional competence or physical or mental health of an individual. Vote: Chair Chapman, yes; Vice Chair Musselman, yes; Commissioner Little, yes; Commissioner Booth, yes. The motion was approved.

CLOSED TO PUBLIC

An Executive Session was held from 10:40 a.m. to 11:22 a.m.

OPEN TO PUBLIC

Results of Executive Session

Results of Stipulations

Jeremiah A Nash – Approved with Division Concurrence
Nicholas Golden – Approved with Division Concurrence
Paul Robbins Henderson – Approved with Division Concurrence
West D Haradin – Approved with Division Concurrence
Derek Klopfer – Approved with Division Concurrence

Cory E Martin – Approved with Division Concurrence
Stephen Adam Koch – Denied

The application for Morris Kunz was approved to move forward in the licensing process.

A motion was made and seconded to adjourn the meeting. Vote: Chair Chapman, yes; Vice Chair Musselman, yes; Commissioner Little, yes; Commissioner Booth, yes. The motion was approved. The meeting adjourned at 11:23 a.m.